

REMARKS

Claims 20, 25, 26 and 30 are canceled without prejudice, and therefore claims 17 to 19, 21 to 24, 27 to 29 and 31 to 38 are pending in the present application.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

With respect to paragraph two (2) of the Office Action, claim 35 was objected to as to antecedent basis. Claim 35 has been rewritten to obviate the objection. Withdrawal of the objection is therefore respectfully requested.

With respect to paragraph three (3) of the Office Action, claims 17 to 21, 27 to 31, 34 and 37 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,813,370 (“Arai”). Claims 17 to 19, 21, 27 to 29, 31, 34 and 37 remain pending among the rejected claims.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (*See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

While the rejections may not be agreed with, to facilitate matters, independent claims 17, 27, 34 and 37 have been rewritten to better clarify the claimed subject matter.

Claim 17, as presented, provides for “determining at least one fixed image point from the generated image information,” “determining image coordinates of at least one fixed image point in at least two images of one image sequence,” and “determining the at least one measured value from the determined image coordinates, the measured value being used for vehicle dynamics control.”

The Arai reference refers to a lane recognition apparatus that detects the presence of lane markers on a road. To the extent that the Office Action considers the detected position of the lane markers to constitute *fixed image points*, it should be understood that the lane marker detection does not involve detecting fixed image points in an *image sequence*. Detection in Arai only involves analyzing brightness values from a single image. Since the lane marker positions are not *determined in at least two images of one image sequence*, the lane marker positions do not constitute fixed image points according to claim 17.

Accordingly, claim 17, as presented, is allowable, as are its dependent claims 18, 19 and 21.

Claims 27 and 37, as presented, include features similar to those of claim 17. Accordingly, claims 27 and 37, as well as dependent claims 28, 29 and 31, are allowable for at least the same reasons as claim 17.

Claim 34, as presented, includes the feature in which “*the processing of the image information includes determining sampling vectors drawn from a zero coordinate point of each of the at least two image sensors to a fixed image point in each image of a sequence of images sensed by the image sensor system.*”

The Arai reference does not even refer to the use of *sampling vectors*. Additionally, as explained above, Arai does not disclose or suggest fixed image points. Since the sampling vectors reference the fixed image points, it follows that Arai also does not identically disclose or suggest sampling vectors drawn from a zero coordinate point of each of the at least two image sensors to a fixed image point in each image of a sequence of images sensed by the image sensor system, as provided for in the context of claim 34, as presented.

Withdrawal of the anticipation rejections of claims 17 to 19, 21, 27 to 29, 31, 34 and 37 is therefore respectfully requested.

With respect to paragraph four (4) of the Office Action, claims 22 to 26, 32, 33, 35, 36 and 38 were rejected under 35 USC § 103(a) as unpatentable over Arai in view of U.S. Patent No. 6,130,7068 (“Hart”). Claims 22 to 24, 32, 33, 35, 36 and 38 remain pending among the rejected claims.

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there may be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination may be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

As clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claims 22 and 23 depend from claim 17. Claims 32 and 33 depend from claim 27. Claims 35 and 36 depend from claim 34. Accordingly, claims 22, 23, 32, 33, 35 and 36 are allowable for the same reasons as their base claims, since Hart does not cure--and has not been asserted to cure--the deficiencies of Arai as pointed out above in reference to claim 17.

While the rejections may not be agreed with, to facilitate matters, claim 24 has been rewritten to include the feature in which “a viewing direction of a first one of the at least two image sensors is oriented towards a direction of travel and a viewing direction of a second one of the at least two image sensors is oriented towards a direction opposite to the direction of travel.” As explained on page 15 of the Specification, orienting a first camera in the longitudinal direction of the vehicle in conjunction with orienting a second camera in a transverse direction allows the vehicles motion to be captured three-dimensionally.

In contrast, neither Arai nor Hart even refer to cameras arranged in opposite directions, i.e., along the direction of travel and opposite the direction of travel. Further, the Office Action has not specifically cited any sections of the cited references which might suggest this feature. Accordingly, claim 24, as presented, is allowable over the combination of Arai and Hart.

While the rejections may not be agreed with, to facilitate matters, claim 38, has been rewritten to provide the feature of “determining a fixed image point in each image of a sequence of images sensed by the at least two image sensors, determining a sampling vector drawn from a zero coordinate point of each of the at least two image sensors to each of the fixed image points, and determining x, y and z component values of each sampling vector.” Claim 38 further recites an arrangement configured to “determine at least one of a rotational vector and a motion vector as a function of a variation in the sampling vector component values from one image in the sequence of images to a subsequent image in the sequence of images.”

As explained above as to claim 17, Arai neither discloses nor suggests fixed image points. Further, Hart does not cure--and has not been asserted to cure--this deficiency. Therefore, the combination of Arai and Hart does not disclose or suggest the feature of “determining a fixed image point in each image of a sequence of images sensed by the at least two image sensors, determining a sampling vector drawn from a zero coordinate point of each of the at least two image sensors to each of the fixed image points, and determining x, y and z component values of each sampling vector,” as provided for in the context of claim 38, as presented.

Additionally, to the extent that the Office Action considers that Hart somehow discloses either rotation vectors or motion vectors, Hart does not even refer to calculating any vectors “as a function of a variation in the sampling vector component values from one image in the sequence of images to a subsequent image in the sequence of images, as provided for in the context of claim 38, as presented.

As further regards all of the obviousness rejections, any Official Notice is respectfully traversed to the extent that it is maintained and it is requested that the Examiner provide specific evidence to establish those assertions and/or contentions that may be supported by the Official Notices under 37 C.F.R. § 1.104(d)(2) or otherwise. In particular, it is respectfully requested that the Examiner provide an affidavit and/or that the Examiner

provide published information concerning these assertions. This is because the § 103 rejections are apparently being based on assertions that draw on facts within the personal knowledge of the Examiner, since no support was provided for these otherwise conclusory and unsupported assertions. (See also MPEP § 2144.03).

Accordingly, claims 22 to 24, 32, 33, 35, 36 and 38 are allowable, and their rejections should therefore be withdrawn.

In sum, claims 17 to 19, 21 to 24, 27 to 29 and 31 to 38 are allowable.

CONCLUSION

It is therefore respectfully submitted that claims 17 to 19, 21 to 29 and 31 to 38 are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

Respectfully submitted,

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